

M E M O R A N D U M

TO: Governing Board Members

FROM: Tommy B. Strowd, Division Director, Operations, Maintenance & Construction

DATE: December 15, 2011

SUBJECT: A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a Third Amendment to a Cooperative Agreement (C-11759-A03/3600000019 – Assignment and Assumption Agreement) to maintain the primary canal system in Collier County for the purpose of extending the termination date of the agreement from September 30, 2012 to September 30, 2024, and modifying and amending the agreement as set forth in the amendment; providing an effective date.

Background:

This Resolution approves an amendment to an agreement with Collier County to maintain its primary canal system. A copy of the amendment is attached to the Resolution.

The South Florida Water Management District and Collier County entered into a certain Cooperative Agreement dated October 13, 2000, designated by the South Florida Water Management District as Contract C-11759 (“Canal Maintenance Agreement”), which among other things provides that the South Florida Water Management District would be the public agency in Collier County, Florida generally responsible for the control, operation and maintenance of the primary canals described therein.

Pursuant to the Third Amendment to the Canal Maintenance Agreement, the South Florida Water Management District and Collier County, the South Florida Water Management District would transfer all of its right, title, interest and control in the C-1 Connector Canal Right of Way, as well as portions of the Golden Gate Main Canal Right of Way and portions of the Miller Canal Right of Way, back to Collier County; and in connection therewith, the South Florida Water Management District would “Un-adopt” as “Works of the District” the C-1 Connector Canal Right of Way, as well as portions of the Golden Gate Main Canal Right of Way and portions of the Miller Canal Right of Way, upon which the C-1 Connector Canal Right of Way, as well as portions of the Golden Gate Main Canal Right of Way and portions of the Miller Canal Right of Way shall no longer be subject to the provisions of Chapter 40E-6 of the Florida Administrative Code, and the South Florida Water Management District shall no longer have jurisdictional authority over permitting and authorizing uses with respect thereto. The District, however, will continue to maintain the C-1 Connector Canal to the extent the performance of such maintenance is reasonably practical and does not conflict with uses authorized by the County.

The amendment also extends the term of the agreement from September 30, 2012 to September 30, 2024, and provides that each party shall have the right to terminate the Agreement for any reason.

The amendment would also facilitate the resolution of pending litigation involving the subject rights of way.

How this helps meet the District's 10-year Strategic Plan:

The Third Amendment to the Canal Maintenance Agreement between the South Florida Water Management District and Collier County is a key component of the South Florida Water Management District and Big Cypress Basin approved Strategic Plans to provide flood protection.

Funding Source:

BCB Funding is used in connection with the Agreement.

This Board item impacts what areas of the District, both resource areas and geography:

The impacted areas are the Operations, Maintenance, and Construction Division and the Big Cypress Basin Field Station; and geographically portions of the Big Cypress Basin boundary in Collier County.

What concerns could this Board item raise?

Some residents may be concerned that the un-adopted portions of the rights of way will no longer be subject to the requirements and prohibitions outlined in Chapters 40E-6 and 40E-7, Florida Administrative Code.

Why should the Governing Board approve this item?

Approving the amendment will enable the continuation of the agreement which provides mission critical operation and maintenance support to the clearly defined primary canal system in Collier County. The amendment would also facilitate the resolution of pending litigation involving the subject rights of way.

If you have any questions, please do not hesitate to call me at ext. 6998.

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